THE HONONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 6174 OF 2006

Dated 13th August, 2007

Between:

SBSYM Degree College, Kurnool.

…Petitioner

And

The State of Andhra Pradesh, represented by
its Principal Secretary to Government,
Higher Education Department, Secretariat,
Hyderabad and others.

…Respondents.

ORAL ORDER:

This writ petition is filed seeking a writ of certiorari to call for the records pertaining to proceedings dated 7.3.2006 and quash the said proceedings.

Sri Balasiva Universal Peace Foundation is a society registered under the Societies Registration Act. It has established several colleges and one such college is the petitioner-college in Mydukur of Kadapa District. The petitioner is a degree college running courses in B.A., B.com and B.Sc. At the first instance, the courses in B.A. and B.Com. were started in the year 1983-84 and the Science subjects were started in 1984-85. In the petitioner-college, 11 teaching posts relating to Arts subjects were admitted to grant-in-aid in the year 1993 and 31 posts relating to science subjects were admitted to grant-in-aid in the year 1999. It is the case of the petitioner-college that the first respondent-Government issued orders from time to time fixing the strength of the students and workload to assess the economic viability in G.O.Ms.No.33, Higher Education (C.E.II) Department, dated 24.3.2005 and the number of posts which are admitted to grant-in-aid in the petitioner-college is in proportion to the existing workload.

However, by impugned orders, though separate orders are passed which are of stereo-typed, certain staff members who are working in grant-in-aid posts in the petitioner-college were found surplus and were redeployed in the existing vacancies of other needy colleges on duty basis. The said orders are passed on the ground that certain lecturers working private aided colleges are

being paid salaries from Grant-in-Aid even though they are not having sufficient workload due to uneconomic student strength in various groups and if those lecturers are continued in the same places without properly and fully utilizing their services to cater to the educational needs of the students, it would lead to misuse and wastage of public funds and loss to State exchequer. The main grievance of the petitioner in this writ petition is that no opportunity was given and no enquiry was conducted by the respondents before arriving at the decision as to surplus staff and passing the impugned orders.

Counter affidavit and additional counter affidavits are filed on behalf of the respondents.

In the counter affidavit filed by the respondents, while defending the action of the respondents, it is stated that as certain staff were found to be surplus in the petitioner-college, they were redeployed to the other needy colleges. It is stated that the Government is paying for the posts which are admitted to grant-in-aid and due to fact that there is no requirement of some lecturers in the petitioner college having regard to the workload and the minimum economic strength of the students as notified in G.O.Ms.No.33, dated 24.3.2005, orders are issued redeploying respondents 4 to 11 to other needy colleges. The shifting of the staff is only to protect the welfare of staff to avoid stoppage of grant-in-aid to such of the posts and to avert retrenchment of staff. The question of providing any opportunity to the Correspondent of the petitioner-college for determination of surplus lecturers is not necessary as much as the said orders were issued to safeguard the wasteful expenditure of the government funds by paying salaries to such personnel. In the counter affidavit, while giving the places to which respondents 4 to 11 were transferred, it is stated that pursuant to the orders of redeployment, all the lecturers have got themselves relied

from the petitioner-college and joined in their places of posting from 27.3.2006 to 31.3.2006 and are working in the colleges to which they were transferred.

In the additional counter affidavit, while narrating the quantum of workload of the lecturers working in the aided degree colleges and the maintenance of minimum student strength and the lecturers therein, it is stated that a review meeting was convened wherein all the Principals/Correspondents of the colleges attended with all the census of workload, before issuance of the orders of redeployment and after verification of the records relating to internal audit, such of the persons who were found surplus were transferred to other needy colleges.

Heard learned counsel for the petitioner, learned Government Pleader for Education and Shri Shafath Ahmed Khan appearing for the unofficial respondents.

It is submitted by the learned counsel for the petitioner that the impugned orders of redeployment and transfer of respondents 4 to 11 from the petitioner-college to other colleges is without verification of records and the assessment of need in the petitioner-college. It is submitted that at no point of time, opportunity was given to the petitioner with regard to the requirement of staff and viability norms and even in the review meeting held on 18.11.2005, such of the records which are required to be scrutinized for the purpose of assessing the need of the lecturers were not examined.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that as much as the salaries of the persons holding the aided posts are being paid by the Government and there is no need to continue the redeployed lecturers in the petitioner-college having regard to the workload and the student strength, respondents 4 to 11 were transferred to other

needy colleges on duty basis and as such, there is no illegality in the order passed by the second respondent which warrants interference under Article 226 of the Constitution of India.

It is not in dispute that the petitioner-college was established very long back, and, at the first instance, it was granted permission to run the Arts and Commerce courses during the academic year 1983-84 and the science subjects later in the year 1984-85. Subsequently, on the proposals forwarded by the petitioner, after assessment of the need and eligibility of the college, orders were issued admitting certain posts to grant-in-aid. It is stated that initially, 11 posts were admitted to grant-in-aid and subsequently 31 posts were admitted to grant-in-aid. May be that, Government is the paymaster to the posts of grant-in-aid, but, if for any reason, certain staff members working in the petitioner-college are to be transferred to other needy colleges, proper opportunity should have to be given to the petitioner before arriving at a decision as to the surplusage of the staff and transferring the staff to other colleges, so as to enable the petitioner-college to put-forth its version on the said stand. It is the case of the petitioner that having regard to the number of courses offered by the petitioner-college and the student strength in the said courses, and, by applying the norms notified in G.O.Ms.No.33, dated 24.3.2005, there is no surplus staff in the petitioner-college. But, however, it is the case of the respondents that when the assessment is made with reference to audit records, respondents 4 to 11 were found surplus. Though it is stated in the counter affidavit that review meeting of the Principals/Correspondents was convened on 18.11.2005 for the said purpose, but, however, it is not clear as to whether any opportunity was given to the petitioner for producing the records pertaining to the earlier three academic years before arriving at the decision as to surplus staff in the petitioner-college. In the counter

affidavit it is categorically stated that there is no need to give any opportunity, which itself shows that no opportunity was given. It is further stated that the assessment was made with reference to the audit records. But, when other records are there, namely, attendance register, acquittance register etc. in the petitioner-college with respect to the courses being run by it for the preceding three years to the date of impugned orders, the respondents ought to have verified the said records before assessing the need. In any event, as it is stated that the respondents 4 to 11, who were transferred to other colleges have joined at the transferred places, I am not inclined to quash the impugned orders. But, however, I deem it a fit case where the petitioner shall be given an opportunity to put forth its version by producing the records available with it in support of the same, as the respondents should have called for all the necessary information and record from the management before taking a decision as to surplus staff and redeployment of respondents 4 to 11 to the other colleges. The matter requires to be examined having regard to the number of classes, the courses offered by the college and the student strength in such classes/courses.

In that view of the matter, I dispose of the writ petition permitting the petitioner to file a comprehensive representation before the second respondent within a period of four weeks from the date of receipt of this order. It is also open for the petitioner to file any supporting material to establish that the services of respondents 4 to 11 cannot be found to be surplus in the petitioner-college. The second respondent shall examine the representation with reference to the material filed by the petitioner along with all other relevant material and pass appropriate reasoned order either confirming or varying the impugned orders. It is also open for the second

respondent to call for any other information from any other authority for the purpose of examining the said issue. The second respondent shall pass orders within a period of two months from the date of the receipt of the representation from the petitioner-college.

Subject to above direction, the writ petition is disposed of. No costs.

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13-8-2007

R.SUBHASH REDDY, J.

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